IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.100 OF 2007

Hemchandra S/o. Shankarrao Masulkar. ... Petitioner.

Vs.

Rupee Co-operative Bank Ltd. & Ors. ...Respondents.

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Mr. S.M. Gorwadkar for the Petitioner.
None for the Respondents.

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CORAM :DR.D.Y.CHANDRACHUD, J.
July 4, 2007.

P.C.:

The Co-operative Appellate Court by its impugned order dated 28th November 2006 has remanded the proceedings back to the Co-operative Court for a decision afresh. The Co-operative Appellate Court has in the course of its judgment, inter alia, indicated that the Trial Court had ignored material part of the evidence on the record. At the hearing of the Petition, Counsel appearing on behalf of the Petitioner has only urged that while the Petitioner does not press the challenge to the order of remand per se, this Court may clarify that the observations contained in the impugned judgment do not amount to a conclusive determination on the merits of the case. The Co-

operative Appellate Court by its impugned order remanded the proceedings back to the Co-operative Court. Obviously therefore, all issues will have to be determined on merits by the Co-operative Court. The observations contained in the impugned order of the Co-operative Appellate Court are intended to indicate that the entire approach of the Co-operative Court suffered from a manifest error which was required to be corrected in appeal by an order of remand. Therefore, while disposing of the Petition, it is clarified that the Co-operative Court will deal with the dispute on remand on the basis of the evidence on the record and after hearing the rival contentions of the parties. The petition shall stand dismissed since no other point has been pressed.

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